

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Chris Willing,

Plaintiff,

vs.

State of Nevada,

Defendant.

Case No. 2:22-cv-00795-CDS-VCF

ORDER

MOTION TO AMEND PLEADING [ECF No. 26]

Judge Silva previously dismissed plaintiff's complaint without prejudice and with leave to amend. ECF No. 25. Plaintiff had until May 12, 2023 to file an amended complaint. *Id.* Plaintiff did not timely file an amended complaint. On May 15, 2023, plaintiff filed a motion to amend his complaint. ECF No. 26. Plaintiff did not attach a copy of his proposed amended complaint. *Id.* Defendant argues that plaintiff's case should be dismissed with prejudice since he did not file an amended complaint on time per Judge Silva's order.

"[A] pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S. Ct. 2197, 167 L. Ed. 2d 1081 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976)). Judge Silva already granted leave to amend, so I deny his motion to amend in part. Since plaintiff is pro se, I liberally construe his motion to amend as a motion for an extension of time to file his amended complaint. I will allow plaintiff an additional three weeks to file his amended complaint.

ACCORDINGLY,

I ORDER that plaintiff's motion for leave to file an amended complaint (ECF No. 26) is

1 GRANTED AND DENIED IN PART, as specified in this order. Plaintiff has until July 12, 2023 to file
2 the amended complaint on the docket.

3 **NOTICE**

4 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
5 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
6 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
7 may determine that an appeal has been waived due to the failure to file objections within the specified
8 time. *Thomas v. Arn*, 474 U.S. 140, 142, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

9 This circuit has also held that (1) failure to file objections within the specified time and (2)
10 failure to properly address and brief the objectionable issues waives the right to appeal the District
11 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d
12 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
13 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any
14 change of address. The notification must include proof of service upon each opposing party's attorney,
15 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may
16 result in dismissal of the action.
17

18 IT IS SO ORDERED.

19 DATED this 21st day of June 2023.

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21 _____
22 CAM FERENBACH
23 UNITED STATES MAGISTRATE JUDGE
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